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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,012	10/03/2003	Nicholas M. Cordaro	SEA1-N53a	8925

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EXAMINER
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SWIGER III, JAMES L

ART UNIT	PAPER NUMBER
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3733

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/679,012	<b>Applicant(s)</b> CORDARO, NICHOLAS M.	
	<b>Examiner</b> James L. Swiger	<b>Art Unit</b> 3733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26, 29 and 30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-13, 15-18, 23, 29 and 30 is/are rejected.
- 7) ☒ Claim(s) 8-10, 14, 19-22 and 24-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/29/03</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of invention I in the reply filed on 4/17/2006 is acknowledged.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 11-12, 15, 17-18, 23, and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowery et al. (US 5,364,399) in view of Ralph (US 5,683,393). Lowery et al. disclose a plating system having a plate (see fig. 1) with at least one opening therein (50), with a width (w1) for receiving the head section of a cervical screw (51) and wherein the lower section has a width that is lower than the initial upper section of w1 (see side profile in Fig. 3), a bone screw (63), that has an upper diameter of d1 (top of the screw head), a neck diameter d2 (just below the mid crown of the screw head) and has a third smaller diameter d3 with a threaded screw portion (63) that once fully threaded into the plate may be rotated relative to the plate, the interface of the two being capable of causing no axial movement between the screw and the plate. The plate also has a plurality of openings (see Fig. 1) and where d1 is approximately equal to w1 substantially to prevent the screw from pivoting to the plate. Also one of the openings is in the form of a rectangular slot (see slot proximal to 50) that

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has semicircular ends. Also, even though the screw may be fixated relative to the slot or opening, the screw may still be rotated longitudinally without causing movement between the screw and the plate. Further, the taper of 50 and 51 is considered a chamfer along the generally straight section.

Lowery et al. disclose the claimed invention except for a helical thread that follows along a track. Ralph discloses a helical thread that is capable of being modified on the rectangular track of Lowery et al. to prevent crossthreading and to secure a screw in the bore (Col. 3, lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the device of Lowery et al. having at least a helical thread or track to better secure the screw in use of the device.

Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lowery et al. and Ralph as applied to claim 1 above, and further in view of Richelsoph et al. (US 6,695,846). The combination of Lowery et al. and Ralph disclose the claimed invention except for a ring that allows the screw to fit better into the helical opening. Richelsoph et al. disclose a ring (see Fig. 6A) that allows the screw to better fit into the helically threaded opening (see Col. 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the device of Lowery et al. having at least a ring to receive screws in a lower section of the plate in view of Richelsoph et al. to better secure the screw into the helical groove.

***Allowable Subject Matter***

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Claims 8-10, 14, 19-22 and 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James L. Swiger whose telephone number is 571-272-5557. The examiner can normally be reached on Monday through Friday, 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS 7/10/06

  
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